SUPREME COURT, U. S.

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JOHN F. DAVIS, CL

In the
Supreme Court of the United States

OCTOBER TERM, 1969

No. 867

THEODORE R. MOWEN,

Petitioner,

vs.

PEOPLE OF THE STATE OF ILLINOIS,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE APPELLATE COURT OF ILLINOIS FIRST DISTRICT, THIRD DIVISION

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TO THE HONORABLE CHIEF JUSTICE AND ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES:

The petitioner, Theodore R. Mowen, prays that a Writ of Certiorari issue to review the judgment of the Appellate Court of Illinois, First District, Third Division.

OPINIONS BELOW

The opinion of the Appellate Court of Illinois, First District, Third Division (hereinafter referred to as Appellate Court) is unreported and appears in Appendix A hereto.

STATEMENT OF JURISDICTION

The Petitioner appealed his conviction in the Circuit Court of Cook County, Criminal Division, to the Appellate Court. On April 3, 1969, the Appellate Court affirmed in part and reversed in part the judgment of conviction. A petition for rehearing was thereafter filed and the appellate Court denied same (Appendix B). A petition for leave to appeal was filed in the Supreme Court of Illinois and that petition was denied on September 25, 1969 (Appendix C). A stay of mandate was granted by the Appellate Court. The jurisdiction of this Court is invoked under the provision of 28 U.S. Code, Sec. 1254 (1).

QUESTION PRESENTED

Whether Petitioner's conviction was based on an indictment so vague and uncertain as to be violative of the Sixth Amendment of the Constitution of the United States?

CONSTITUTIONAL PROVISION INVOLVED

The Sixth Amendment to the Constitution of the United States provides as follows:

> "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense."

STATUES INVOLVED

Chapter 38, Section 9-3 Ill. Rev. Stats. (S.H.A. Ch. 38, Section 9-3):

> "(a) A person who kills an individual without lawful justification commits involuntary manslaughter if his acts whether lawful or unlawful which cause the death are such as are likely to cause death or great bodily harm to some individual, and he performs them recklessly.
>
> (b) If the acts which cause the death consist of the driving of a motor vehicle, the person may be prosecuted for reckless homicide or if he is prosecuted for involuntary manslaughter, he may be found guilty of the included offense of reckless homicide.

STATEMENT OF THE CASE

Petitioner was charged in an eight count indictment (Appendix D) as follows: Count 1, involuntary manslaughter; Count 2, driving under the influence of intoxicating liquor; Count 3, failure to exercise due care for a pedestrian; Count 4, negligent driving; Count 5, driving too fast for conditions; Count 6, driving without a license; Count 7, unlawful use of a license; and Count 8, leaving the scene of an accident. Petitioner was found not guilty by a jury of driving while intoxicated (Count 2) and respondent *nolle prossed* the charge of driving too fast for conditions (Count 5). The jury found petitioner guilty of the lesser included offense of reckless homicide on the involuntary manslaughter charge. He was found guilty as charged on the remaining counts. He was sentenced to serve one to four years in the penitentiary for reckless homicide, fined $100 for negligent driving and $100 for failure to exercise

due care for a pedestrian. He was further sentenced to serve one year in the House of Correction for each of the following offenses: leaving the scene of an accident, unlawful use of a license and driving without a license. All the prison terms are to run concurrently.

The Appellate Court reversed the judgment as to negligent driving (Count 4) of the indictment on the grounds that it was fatally vague under the Sixth Amendment to the Constitution. The Appellate Court affirmed the judgment below as to the remaining counts. A petition for rehearing was denied on May 9, 1969. A petition for leave to appeal was filed in the Supreme Court of Illinois and was denied on September 25, 1969.

REASONS FOR GRANTING THE WRIT

Petitioner submits that the question of whether his conviction for reckless homicide was based on an indictment so vague as to violate the Sixth Amendment guarantees against double jeopardy and apprising Petitioner of sufficient facts so as to allow him to fully prepare his defense, is manifestly substantial and a compelling reason for granting this writ.

The Sixth Amendment mandate that the accused shall be guaranteed the right ". . . to be informed of the nature and cause of the accusation. . ." is satisfied when the indictment 1) "contains the elements of the offense intended to be charged, and sufficiently apprises the defendant of what he must be prepared to meet," and 2) "in case any other proceedings are taken against him for a similar offense whether the record shows with accuracy to what extent he may plead a former acquittal or conviction." *Russell* v. *United States*, 369 U.S. 749, 763, 764, (1962). These

criteria are not met when an indictment does not allege facts but simply repeats the language of the criminal statutes, *Russell* v. *United States, supra.* In 1876 this Court in *United States* v. *Cruikshank,* 92 U.S. 542, 558 (1876) stated:

> "It is an elementary principle of criminal pleadings, that where the definition of an offense, whether it be at common law or by statute, 'includes generic terms, it is not sufficient that the indictment shall charge the offense in the same generic terms as in the definition; but it must state the species,—it must descend to particulars.'"

It is respectfully submitted that a plain reading of Count 1 of the indictment (App. D) clearly demonstrates that the charge therein fails to meet the tests set down by this Court, *supra.* Count 1 charges that Petitioner committed the crime of involuntary manslaughter in that he ". . . acting in a reckless manner killed Martha Porter with an automobile, without lawful justification, in violation of Chapter 38, Section 9-3(b), of the Illinois Revised Statutes 1963."

There are absolutely no facts alleged from which the petitioner could ascertain what specific conduct was charged to have been reckless. For example, was the reckless conduct running a red light, speeding, driving while intoxicated, failing to keep a proper watch for pedestrians or failing to sound his horn? Perhaps the reckless conduct was none of these, but was the act of leaving the scene of an accident. It is apparent that had Petitioner been acquitted of the instant charge, he could be reindicted for the same offense in that he left the scene of an accident and failed to give aid to the injured party. Clearly, the indictment does not set forth the offense ". . . fully, directly,

and expressly, without any uncertainty or ambiguity . . ." as commanded by *Russell* v. *United States, supra,* p. 765.

The Appellate Court upheld the sufficiency of Count 1 of the indictment by stating that said Count contained a particular act, i.e., "striking Martha Porter" which could be relied on to sustain the charge. Further stating "That is sufficient in itself to eliminate any prospect of double jeopardy." Petitioner submits that the crime charged in Count 1 is not killing a person with an automobile, but rather killing a person with an automobile while "acting in a reckless manner." The striking of Martha Porter is only the *result* of the criminal activity charged. Clearly, no particular or specific acts, constituting the conclusory recklessness are charged, thus that Count is fatally defective.

It is manifest that the offense is not charged with sufficient particularity so that Petitioner could plead his conviction as a bar to any subsequent prosecution for the same offense; nor was the charge stated with the degree of particularity necessary to apprise Petitioner "of what he must be prepared to meet."

CONCLUSION

For the reasons stated, it is respectfully submitted that this Petition for certiorari should be granted.

Respectfully submitted,

DAVID P. SCHIPPERS,
SAMUEL J. BETAR,
79 West Monroe Street,
Chicago, Illinois 60603,
Attorneys for Petitioner.

APPENDIX A

No. 52811 PEOPLE OF THE STATE OF ILLINOIS, *Plaintiff-Appellee,* v. THEODORE R. MOWEN, *Defendant-Appellant.*	Appeal from the Circuit Court of Cook County. Hon Hebert C. Paschen Presiding.

MR. JUSTICE SCHWARTZ DELIVERED THE OPINION OF THE COURT.

Defendant was indicted on eight counts as follows: (1) involuntary manslaughter, (2) driving under the influence of intoxicating liquor, (3) failure to exercise due care for a pedestrian, (4) negligent driving, (5) driving too fast for conditions, (6) driving without a license, (7) unlawful use of a license, and (8) leaving the scene of an accident. The charge of driving too fast for conditions was nolle prossed by the State. In a jury trial the defendant was found not guilty of driving under the influence of intoxicating liquor and was found guilty of the lesser included offense of reckless homicide on the involuntary manslaughter charge. He was found guilty as charged on all the remaining counts. He was sentenced to serve one to

four years in the penitentiary for reckless homicide, fined $100 for negligent driving and $100 for failure to exercise due care for a pedestrian, and sentenced to serve one year in the House of Correction for each of the following offenses: leaving the scene of an accident, unlawful use of a license and driving without a license. All the prison terms are to run concurrently. Defendant contends on appeal that he was not proven guilty of reckless homicide beyond a reasonable doubt; that the indictments for involuntary manslaughter, negligent driving and failure to exercise due care for a pedestrian were fatally defective; that the counts of the indictment were misjoined and that because of the before mentioned errors, the entire conviction should be reversed. The facts follow.

At about 6:30 p.m. on October 15, 1965 Lynn Stodella and Martha Porter alighted from a bus at the southeast corner of Clark and Webster Streets in Chicago. They started to walk east on Webster Avenue but discovered they were going in the wrong direction, they turned and walked west. As they crossed Clark Street, they were both struck by the defendant's car and carried approximately fifty feet on its hood. Lynn Stodella was knocked unconscious and Martha Porter was killed.

Susan Steuer, a witness for the State, testified that she was sitting at the window facing east in a restaurant on the northwest corner of Clark and Webster and saw the accident. She testified that defendant was driving north on Clark Street, that the light for Clark Street was red and that cars going south had come to a stop. Defendant drove through the light without stopping, struck the two girls crossing the street and carried them on the hood of his car across the intersection. The car swerved to the

right, the girls fell off the hood on the northeast corner of the intersection, the car then swerved back to the left and continued north on Clark Street at a high rate of speed.

Thomas Hemminger testified that he heard the impact and looked up to see a car driving across Webster Avenue with the bodies of two girls on the hood. He testified that the girls fell off the hood on the north side of Webster and that the car accelerated from 15 to 30 miles an hour after striking them.

Two automobile drivers testified they observed the accident and chased defendant several blocks until a police officer stopped him and one of the drivers yelled to the policeman that defendant was a hit-and-run river. The policeman testified that he chased defendant two blocks after he observed him leaving the intersection of Clark and Webster in a "cloud of dust"; that while pursuing defendant, the blue light on the roof of the police car was flashing and that defendant ran through a stop sign in the process of the chase. When the policeman finally stopped him, defendant produced a driver's license which bore the name, "Richard Martin."

Defendant testified that he had dinner with a friend in the Loop (the central business district of Chicago) and drank two beers with his meal. He then drove his friend to Clark and Division Streets and after his friend got out, he continued north on Clark Street at about 10 or 15 miles an hour. He testified that when he got to Webster Avenue the light was green and he proceeded through the intersection. He further testified that as he was going through the intersection he heard a noise and though he had hit a car and "because of the uncertainty of my license, I did panic and started to run." Defendant's driver's license

had been revoked and he was using a license given to him by a friend "for an emergency." He denied having seen anyone in the intersection.

Defendant's first contention is that he was not proven guilty of reckless homicide beyond a reasonable doubt. He argues that to establish reckless homicides the State must prove that the defendant's actions were reckless and wanton and of such a character as to have shown utter disregard for the safety of others. *People* v. *Sikes*, 328 Ill. 64, 159 N.E. 293; *People* v. *Herkless*, 361 Ill. 32, 196 N.E. 821. He contends that at worst he was proven guilty of passive negligence.

A person commits the crime of reckless homicide if he kills a person while driving a motor vehicle and the acts which cause death "are such as are likely to cause death or great bodily harm to some individual, and he performs them recklessly." Ill. Rev. Stat., ch. 38, § 9-3 (1967). In the instant case the State adduced evidence from which the jury could have found that the defendant struck two women while running through a red light and then increased his speed in an attempt to escape while the bodies of the women were still on the hood of his car. The credibility of witnesses is a matter for the jury to determine and here the jury obviously did not believe defendant's testimony that he was unaware that he struck the women and carried their bodies fifty feet on the hood of his car. The fact that defendant ran a red light does not of itself establish that he was acting recklessly, but when considered together with his conduct after he struck the women, it demonstrated recklessness and an utter disregard for their safety. Defendant was proven guilty of reckless homicide beyond a reasonable doubt.

Defendant's second contention is that Counts I, III and IV are so vague and uncertain as to violate the Sixth Amendment of the Federal Constitution and Article II, Section 9, of the Illinois Constitution. The counts read as follows:

> "County I . . . Theodore Mowen committed the offense of involuntary manslaughter in that he, acting in a reckless manner, killed Martha Porter with an automobile, without lawful justification, in violation of Chapter 38, Section 9-3(b), of the Illinois Revised Statutes, 1963."
>
> "Count III . . . Theodore Mowen committed the offense of failure to exercise due care for pedestrian, in that he, knowingly failed to exercise due care while driving an automobile, to avoid colliding with a pedestrian, to-wit: Martha Porter, who was upon the roadway, and failed to give warning by sounding the horn of his automobile, in violation of Section 27-257, of the Traffic Regulations of the City of Chicago."
>
> "Count IV . . . Theodore Mowen committed the offense of negligent driving, in that he, knowingly operated a vehicle, to-wit: an automobile, upon the public way negligently, heedlessly and without due caution, and in a manner so as to endanger one Martha Porter, in violation of Section 27-257 of the Traffic Regulations of the City of Chicago."

The constitutional requirements are satisfied if the offense is charged with such particularity and clarity as to enable a defendant to fully prepare for his defense and to plead the judgment in bar of a subsequent prosecution for the same offense. *People* v. *Griffin,* 36 Ill. 2d 430, 223 N.E. 2d 158; *People* v. *Peters,* 10 Ill. 2d 577, 141 N.E. 2d 9. In the *Griffin* case, *supra,* and in *People* v. *Greeen,* 368 Ill. 242, 13 N.E. 2d 278, upon which defendant relies the court held that indictments for reckless driving which

were in the words of the statute and failed to specify any act were not sufficient to protect the defendant against double jeopardy. In *Green*, the court stated that the indictment "did not allege a single fact and there was nothing in it from which the defendant could tell definitely, or even guess what acts he may have been charged with." In *Griffin* the court said (p. 433):

> "Unless a defendant is advised of the particular acts relied upon to sustain a charge of reckless driving, he is not advised of the 'nature and elements' of the offense, and he is not afforded the full protection against double jeopardy contemplated by the constitution. For example, if a defendant drove at an excessive rate of speed, ran through three successive red lights and also drove on the wrong side of the road, and then pleaded guilty to a complaint phrased like the one now before us, his protection from subsequent prosecution for each specific offense is sufficiently dubious to contravene the purpose of section 9 of article II of the constitution."

In the instant case Counts I and III are clearly distinguishable from the type of indictment that *Green* and *Griffin* proscribed. Both counts state a particular act relied upon to sustain the charge—namely, striking Martha Porter. That is sufficient in itself to eliminate any prospect of double jeopardy. Clearly he could have struck and killed Martha Porter only once.

Count IV however merely states that he operated an automobile "upon the public way negligently, heedlessly and without due caution, and in a manner so as to endanger one Martha Porter." Although it specifies a particular person, it fails to specify any particular act by defendant. The fact that the indictment states that his negligence endangered Martha Porter does not inform him of the par-

ticular acts relied upon and the conviction for negligent driving under that count must be reversed.

Defendant's third contention is that the counts of the indictment were improperly joined and the trial together on all the counts resulted in substantial prejudice to his rights. He argues that the counts of driving without a license, unlawful use of a license and leaving the scene of the accident were not related to the other charges and were only joined to inflame the minds of the jury.

The propriety of the joinder of separate offenses in separate counts of a single indictment is controlled by Section 111(4)(a) of the Criminal Code which provides:

> "Two or more offenses may be charged in the same indictment, information, or complaint in a separate count for each offense if the offenses charged, whether felonies or misdemeanors or both, are based on the same act or on two or more acts which are part of the same comprehensive transaction." Ill. Rev. Stat., ch. 38, § 111(4)(a) (1967).

In the instant case from the moment that the defendant ran through the red traffic light and struck the two women to the time he was stopped in his escape by the police officer and then produced a false driver's license, the defendant was engaged in the same comprehensive transaction. His own testimony is "because of the uncertainty of my license, I did panic and I started to run." The fact that he was driving with a spurious driver's license and did not have one of his own was an integral part of the entire transaction, as was his leaving the scene of the accident. Moreover, it has long been the law that a defendant waives his right to complain that he was prejudiced by a misjoinder of counts if he fails to raise the point in a motion to quash prior to the trial. *People* v. *Stilson,* 342 Ill. 158, 174

N.E. 45; *People* v. *Jones,* 291 Ill. 52, 125 N.E. 711; *People* v. *Poe,* 304 Ill. App. 601, 26 N.E. 2d 415. Here the defendant made no motion to dismiss or for severance and he cannot raise the point for the first time on appeal.

Defendant's final contention is that because there was a misjoinder of counts in the indictment, the entire conviction should be reversed. This contention is rendered moot by our finding that there was no error as to the joinder of counts.

Defendant's conviction for negligent driving is reversed and his conviction on all other counts is affirmed.

JUDGMENT REVERSED IN PART AND AFFIRMED IN PART.

SULLIVAN, P. J. and DEMPSEY, J. concur.

APPENDIX B

IN THE APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

PEOPLE OF THE STATE OF ILLINOIS,

Appellee,

No. 52811 vs.

THEODORE R. MOWEN,

Appellant.

Appeal from Circuit Court

Petition of Appellant for Rehearing, Denied.

Entered: May 9, 1969.

I, Leslie V. Beck, Clerk of the Appellate Court, in and for the First District of the State of Illinois, and keeper of the records, files and seal thereof, do hereby certify, that the foregoing is a true copy of a certain order entered in said Appellate Court in the above entitled cause, of record in my office.

In testimony whereof, I have set my hand and affixed the seal of the said Appellate Court, at Chicago, this 7th day of November in the year of our Lord one thousand nine hundred and sixty-nine.

LESLIE V. BECK,

Clerk of the Appellate Court of the First District, Ill.

APPENDIX C

September 25, 1969

Messrs. Schippers, Betar,
Lamendella & O'Brien,
Attorneys at Law,
79 West Monroe Street—Suite 801
Chicago, Illinois 60603.

Gentlemen:

In Supreme Court today, in case No. 42308 entitled: People State of Illinois, respondent, vs. Theodore R. Mowen, petitioner, Petition for Leave to Appeal was: Denied.

Very truly yours,

JUSTIN TAFT,

Clerk of the Supreme Court

APPENDIX D

State of Illinois }
County of Cook } ss.

The November, 1965 Grand Jury of the Circuit Court of Cook County.

Count I

The Grand Jurors chosen, selected, and sworn, in and for the County of Cook, in the State of Illinois, in the name and by the authority of the People of the State of Illinois, upon their oaths present that on October 15th, 1965 at and within said County Theodore R. Mowen committed the offense of invol-

untary manslaughter, in that he, acting in a reckless manner, killed Martha Porter with an automobile, without lawful justification, in violation of Chapter 38, Section 9-3 (b), of the Illinois Revised Statutes 1963, contrary to the Statute, and against the peace and dignity of the same People of the State of Illinois.

Count 2

4 The Grand Jurors chosen, selected, and sworn, in and for the County of Cook, in the State of Illinois, in the name and by the authority of the People of the State of Illinois, upon their oaths aforeesaid present that on October 15th, 1965, at and within said County Theodore R. Mowen committed the offense of driving a motor vehicle while intoxicated, in that he, did unlawfully and wilfully drive a certain vehicle, to wit: an automobile upon a public highway in said County of Cook and State of Illinois while said Theodore R. Mowen was then and there under the influence of intoxicating liquor, in violation of Chapter 95½, 47, U.A.R.T. of the Illinois Revised Statutes 1963, contrary to the Statute, and against the peace and dignity of the same People of the State of Illinois.

Count 3

5 The Grand Jurors chosen, selected, and sworn, in and for the County of Cook, in the State of Illinois, in the name and by the authority of the People of the State of Illinois, upon their oaths aforesaid present that on October 15th, 1965, at and within said County Theodore R. Mowen committed the offense of failure to exercise due care for pedestrian, in that he, knowingly failed to exercise care while driving an

automobile, to avoid colliding with a pedestrian, to wit: Martha Porter, who was upon the roadway, and failed to give warning by sounding the horn of his automobile, in violation of Section 27-257, of the Traffic Regulations of the City of Chicago, contrary to the Statute, and against the peace and dignity of the same People of the State of Illinois.

Count 4

6 The Grand Jurors chosen, selected, and sworn, in and for the County of Cook, in the State of Illinois, in the name and by the authority of the People of the State of Illinois, upon their oaths aforesaid present that on October 15th, 1965, at and within said County Theodore R. Mowen committed the offense of negligent driving, in that he, knowingly operated a vehicle, to wit: an automobile, upon the public way negligently, heedlessly and without due caution, and in a manner so as to endanger one Martha Porter, in violation of Section 27-257, of the Traffic Regulations of the City of Chicago, contrary to the Statute, and against the peace and dignity of the same People of the State of Illinois.

Count 5

7 The Grand Jurors chosen, selected, and sworn, in and for the County of Cook, in the State of Illinois, in the name and by the authority of the People of the State of Illinois, upon their oaths aforesaid present that on October 15th, 1965, at and within said County Theodore R. Mowen committed the offense of driving too fast, in that he, knowingly drove a vehicle, to wit: an automobile, upon the public highway of this State

at a speed which was greater than reasonable and proper with regard to traffic conditions and the use of the highway, and that endangered the safety of one Martha Porter, a pedestrian, in violation of Chapter 95½, Section 146-49-A1, of the Illinois Revised Statutes 1965, contrary to the Statute, and against the peace and dignity of the same People of the State of Illinois.

Nolle prossed.

Count 6

8 The Grand Jurors chosen, selected, and sworn, in and for the County of Cook, in the State of Illinois, in the name and by the authority of the People of the State of Illinois, upon their oaths aforesaid present that on October 15th, 1965, at and within said County Theodore R. Mowen committed the offense of driving without a license, in that he, knowingly drove a motor vehicle, to wit: an automobile, upon the highways of this State, without a valid license or permit as an operator or chauffeur, or without a restricted driving permit, in violation of Chapter 95½, Section 6-101, of the Illinois Revised Statutes 1963, contrary to the Statute, and against the peace and dignity of the same People of the State of Illinois.

Count 7

9 The Grand Jurors chosen, selected, and sworn, in and for the County of Cook, in the State of Illinois, in the name and by the authority of the People of the State of Illinois, upon their oaths aforesaid present that on October 15th, 1965, at and within said County Theodore R. Mowen committed the offense of unlaw-

ful use of license, in that he, knowingly had in his possession a fictitious license, in violation of Chapter 95½, Section 6-301.1, of the Illinois Revised Statutes 1963, contrary to the Statute, and against the peace and dignity of the same People of the State of Illinois.

Count 8

The Grand Jurors chosen, selected, and sworn, in and for the County of Cook, in the State of Illinois, in the name and by the authority of the People of the State of Illinois, upon their oaths aforesaid present that on October 15th, 1965, at and within said County Theodore Mowen committed the offense of leaving the scene of an accident, in that he, drove a certain vehicle, to wit: an automobile, upon the public street and highway in said County, to wit: on Clark Street at or near the intersection of said Clark Street and Webster Avenue, in the City of Chicago, Cook County, Illinois; and that said Theodore R. Mowen so drove said vehicle as aforesaid, said vehicle then and there was involved in an accident that resulted in injury to one Lynn Stodola; that is to say, that Theodore R. Mowen then and there propelled and ran said vehicle, to wit: automobile, into, against, upon and over the body of said Lynn Stodola, and then and there struck, dragged, cut, mangled, crushed and wounded said Lynn Stodola with said vehicle, then and there with said vehicle giving to said Lynn Stodola divers bodily injuries.

And the Grand Jurors aforesaid, upon their oaths aforesaid, do further present that on said 15th day of October 1965, in said County of Cook, in the State of Illinois, aforesaid, after said accident, said Theodore R. Mowen well knew that said vehicle driven

by him as aforesaid had been involved in said accident as aforesaid and then and there well knew that said accident had resulted in injury to said Lynn Stodola; and that said Theodore R. Mowen then and there unlawfully, wrongfully, knowingly, wilfully and negligently failed and neglected to stop said vehicle at the scene of said accident and failed and
11 neglected to stop said vehicle as close to the scene of said accident as possible, but then and there left the scene of said accident and failed and neglected to then forthwith return to the scene of said accident and failed and neglected to give the name and address of said Theodore R. Mowen and the registration number of said vehicle he was driving as aforesaid to said Lynn Stodola and failed and neglected to render to said Lynn Stodola any assistance and failed and neglected to render to said Lynn Stodola reasonable assistance, including the carrying or the making of arrangements for the carrying of said Lynn Stodola to a physician, surgeon or hospital for medical or surgical treatment. It being then and there apparent that such treatment was necessary, and failed and neglected to remain at the scene of said accident until said Theodore R. Mowen had given his name and address and registration number of said vehicle he was driving aforesaid to said Lynn Stodola and until said Theodore R. Mowen had rendered to said Lynn Stodola reasonable assistance, including the carrying or the making of arrangements for the carrying of said Lynn Stodola to a physician, surgeon or hospital for medical or surgical treatment; contrary to the Statute, and against the peace and dignity of the same People of the State of Illinois.

DANIEL P. WARD,
State's Attorney.